



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX**

**75 Hawthorne Street  
San Francisco, CA 94105**

**November 15, 2012**

**Certified Mail No. 7005-2570-0001-6436-5740**

**Return Receipt Requested**

**In reply, refer to WST-3**

**Notification of Intent to File an Administrative Penalty Complaint Against Clean Harbors  
Buttonwillow and Notice of Right to Request a Hearing**

**Marianna Buoni  
General Manager  
Clean Harbors Buttonwillow  
2500 West Lokern Road  
P.O. Box 787  
Buttonwillow, CA 93206**

**EPA Identification Number: CAD 980 675 276**

**Dear Ms. Buoni:**

On October 18 – 22, 2010, representatives of the United States Environmental Protection Agency (EPA), accompanied by representatives of the Department of Toxic Substances Control (DTSC), conducted a hazardous waste compliance inspection at Clean Harbors Buttonwillow (herein CHB or the facility), located in Buttonwillow, CA, EPA Identification Number CAD 980 675 276. During the course of this investigation, information was gathered in accordance with Section 3007 of the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. § 6927(a).

**Notification of Intent to File an Administrative Penalty Complaint Against CHB and Notice of  
Right to Request a Hearing**

Based on information gathered during the inspection, EPA is preparing to bring a civil administrative action against CHB to ensure compliance and assess penalties, pursuant to Section 3008(a)(1) of RCRA, as amended, 42 U.S.C. § 6928(a)(1).

The allegations against CHB include violations of the RCRA Hazardous Waste Management requirements, 42 U.S.C. §§ 6921 – 6939e, and the implementing regulations, the California Code of Regulations ("CCR"), Title 22, Division 4.5, the California Health and Safety Code, Division 20, and the facility's Hazardous Waste Permit, as specified below. Under Section 3006 of RCRA, 42 U.S.C. § 6926, the violations of the State of California's authorized

RCRA Hazardous Waste Management Program identified below are federally enforceable. The allegations against CHB are:

1. Failure to close hazardous waste containers, in violation of 22 CCR § 66265.173(a) and the Facility Permit, Part III.A.3 [40 CFR § 265.173(a)];
2. Storage of hazardous waste for greater than 90 days and failure to date a hazardous waste container, in violation of 22 CCR §§ 66262.34(a)(2) and 66270.1(c) and the Facility Permit [40 CFR §§ 262.34(a)(2) and 270.1(c)];
3. Failure to have tank spill prevent controls, in violation of 22 CCR § 66265.194(b)(1) and Permit Part III.C.5 [40 CFR 265.194(b)(1)]
4. Failure to have tank leak detection systems, in violation of 22 CCR § 66265.193(e)(3)(C)) [40 CFR § 265.193(e)(3)(iii)]
5. Failure to have tank system secondary containment, in violation of 22 CCR § 66265.193(f) [40 CFR § 265.193(f)]
6. Failure to maintain and operate the facility to minimize the possibility of a release, in violation of 22 CCR § 66264.31 and Permit Part II.E.3 [40 CFR § 264.31]
7. Failure to properly manage restricted waste, in violation of 22 CCR §§ 66268.40(a) and 66268.50(a)-(c), the facility Permit, Part II.R.1, and the Supplemental Landfill Operations Plan [40 CFR §§ 268.40(a) and 268.50(a)-(c)]
8. Failure to comply with land disposal requirements, in violation of the Facility Permit, Part II.B.3, Part B Permit Application, Part 3.2.4.4, and 22 CCR §§ 66264.13 and 66264.40(a) [40 CFR §§ 264.13 and 268.40(a)]

In anticipation of filing an administrative penalty action, formally entitled a "Determination of Violation, Compliance Order and Notice of Right to Request a Hearing" (hereinafter Complaint) against CHB, EPA is extending CHB the opportunity to submit any information that EPA should consider before issuing the Complaint. Relevant information may include any evidence of reliance on compliance assistance, additional compliance tasks performed subsequently to the inspection, or financial factors bearing on CHB's ability to pay a civil penalty.

It is EPA's intention to file a Complaint against CHB within the next 21 calendar days from your receipt of this letter unless CHB advises EPA of substantial reasons not to proceed. In addition, EPA encourages CHB to explore the possibility of a settlement. If you are interested in commencing settlement negotiations, please contact Mr. Kaoru Morimoto of my staff at (415) 972-3306, or have your counsel contact Ms. Mimi Newton in our Office of Regional Counsel at (415) 972-3941 as soon as possible to schedule a meeting or conference call.

Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), as adjusted by the Debt Collection Improvement Act of 1996 (61 Fed. Reg. 69360 (Dec. 31, 1996)) and the Civil Monetary Penalty Inflation Adjustment Rule (69 Fed. Reg. 7121 (Feb. 13, 2004)) authorizes a civil penalty of up to \$32,500 per day per violation for violations occurring between March 16, 2004 and January 12, 2009. The Civil Monetary Penalty Inflation Adjustment Rule (73 Fed. Reg. 75340 (Dec. 11, 2008), and 74 Fed. Reg. 626 (Jan. 7, 2009)), authorizes a civil penalty of up to \$37,500 per day for violations of Subtitle C of RCRA, 42 U.S.C. § 6921 *et seq.*, occurring after January 12, 2009. Below are links to the adjusted penalty policy matrices:

- <http://www.epa.gov/compliance/enforcement/waste/documents/policies/rcpprevisedtables2005.pdf>
- <http://www.epa.gov/compliance/resources/policies/civil/penalty/revisionpenaltypolicy04910.pdf>

Any penalty proposed for violations of RCRA and its implementing regulations will be calculated pursuant to EPA's "RCRA Civil Penalty Policy," which can be found at the link below:

- <http://www.epa.gov/compliance/resources/policies/civil/rcra/rcpp2003-fnl.pdf>

There are additional documents which may be useful. EPA's "Supplemental Environmental Projects Policy" (SEP Policy) describes the terms under which a commitment to perform an environmental project may mitigate, in part, an EPA civil penalty. EPA's "Small Business Resources Information Sheet" offers small businesses a wide variety of compliance assistance resources and tools designed to assist them in complying with Federal and State environmental laws. The Securities and Exchange Commission's (SEC) "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings" identifies disclosure requirements of environmental legal proceedings for registrants. To determine the applicability of the SEC requirements to your company you should seek competent legal counsel as described in the SEC Notice. Below are links to these documents.

- <http://www.epa.gov/enforcement/documents/policies/sep/fnlsep-hermn-mem.pdf>
- <http://www.epa.gov/compliance/resources/publications/incentives/smallbusiness/smallbusinessresources.pdf>
- <http://www.epa.gov/compliance/resources/policies/incentives/programs/sec-notice-dutytodisclose.pdf>

Confidential Business Information

EPA regulations governing confidentiality of business information are set forth in 40 CFR Part 2, Subpart B. For any portion of the information submitted which is entitled to confidential treatment, please assert a confidentiality claim in accordance with 40 CFR § 2.203(b). If the EPA determines that the information over which you assert a claim meets the criteria set forth in 40 CFR § 2.208, the information will be disclosed only to the extent, and by means of the procedures specified in 40 CFR Part 2, Subpart B. EPA will construe the failure to furnish a confidentiality claim with your response to this letter as a waiver of that claim. Accordingly, EPA may make information available to the public without further notice [40 CFR § 2.203(a)(2)].

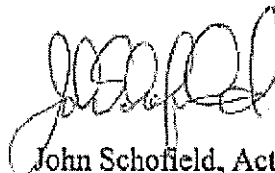
Please send any information by certified mail, return receipt requested, addressed to:

Kaoru Morimoto  
Mailcode: WST-3  
U.S. Environmental Protection Agency  
75 Hawthorne Street  
San Francisco, CA 94105

In lieu of submitting the requested response by mail, CHB may submit the response as portable document files via electronic mail to Mr. Morimoto at morimoto.kaoru@epa.gov.

Thank you for your prompt attention to this matter. If you have any questions, please contact me at (415) 972-3306, or have your counsel contact Ms. Mimi Newston in our Office of Regional Counsel at (415) 972-3941.

Sincerely,



John Schofield, Acting Manager  
RCRA Enforcement Office

cc: Ignacio Domínguez, DTSC  
Kristine Green, DTSC